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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,756	06/01/2001	Graham G. Yarbrough	2997.1004-001	9993

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EXAMINER

NGUYEN, TRONG NHAN P

ART UNIT PAPER NUMBER

2152

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/872,756

Applicant(s)

YARBROUGH, GRAHAM G. 

Examiner

Jack P Nguyen

Art Unit

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 6/01/01.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 and 55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 29-54 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/17/01
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1-55 are being examined.

#### ***Drawings***

2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because they are difficult to read and interpret. The labels are not clear and unambiguous. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

#### ***Election/Restrictions***

3. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Group 1: Claims 1-28 and 55 are drawn to a method for changing the format of the data transferred between a legacy and other systems in 709, subclass 246.

- II. Group 2: Claims 29-34 are drawn to a method for converting format and timing of message exchanges between two systems governed by different set of communicating rules in class 370, subclass 466.
- III. Group 3: Claims 35-40 are drawn to a method for correcting and modifying data between operation to conform to the conditions of the legacy systems in class 709, subclass 232.
- IV. Group 4: Claims 41-54 are drawn to a method for communication between processes or application programs using message queue system 710, subclass 314.

4. Inventions I, II III, and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. Invention I has a separate utility such as in a system lacking converting format and timing of message exchanges between two systems governed by different set of communicating rules in, correcting and modifying data between operation to conform with the conditions of the legacy systems, and for communication between processes or application programs using message queue system. Invention II has a separate utility such as in a system lacking for correcting and modifying data between operation to conform to the conditions of the legacy systems and communication between processes or application programs using message queue system. Invention III has a separate utility such as in a system lacking for

Art Unit: 2152

communication between processes or application programs using message queue system. See MPEP § 806.05(d).

5. These inventions are distinct for the reasons given above, and the search required for each Group is different and not co-extensive for examination purpose. For example, the searches for the two inventions would not be co-extensive because these groups would require different searches on PTO's classification class and subclass as following:

(a) Group I search (claims 1-28 and 55) would require use of search **Class 709, subclass 246.**

(b) Group II search (claims 29-34) would require use of search **Class 370, subclass 466.**

(c) Group III search (claims 34-40) would require use of search **Class 709, subclass 232.**

(d) Group <sup>IV</sup>~~III~~ search (claims 41-54) would require use of search **Class 710, subclass 314.**

6. A telephone call was conducted with Mr. Dan Tysver, the applicant's representative, on September 1, 2004 to address a possibility of restriction requirement. The applicant chose an election of Group I, which is, claims 1-28 and 55, without traverse.

Art Unit: 2152

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

8. Claims 29-54 are withdrawn from consideration.

9. Claims 1-28 and 55 are now presented for examination.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-28 and 55 are rejected under 35 U.S.C. 102(b) as anticipated by Yates et al, WO 99/03098 (Yates hereafter).

12. As per claim 1, Yates teaches an apparatus (10, fig. 1A; queue server or open systems server [page 4, lines 23-27]) for protocol conversion, comprising a device

Art Unit: 2152

emulator (12, fig. 1A; *plurality of device emulators are shown connected to plurality of hosts in this system*) coupled to a first device (50, fig. 1B; *host mainframe computer – host A*) using first protocol (protocol A); digital storage (60, fig. 1) coupled to the device emulator for temporary storage of information from the first protocol; manager (30, fig. 1; *also functions as group driver; group driver controls other I/O drivers and data transfers to between plurality of hosts (16, fig. 1A, page 11, lines 10-11) connected to plurality of device emulators*) coordinating the transfer of the information of the first protocol between the device emulator and the digital storage and coordinating transfer of the information between the digital storage and second protocol (protocol B to second host B) (pages 3, lines 26 - page 4, lines 10).

13. As per claim 2, Yates teaches the device emulator is a tape drive emulator (page 3, lines 22-25).

14. As per claim 3, it is well known in the art that the tape drive can be magnetic disk to store data.

15. Claims 4-9 are rejected on same basis as claim 1 with the limitations addressed above.

16. Claim 10 is a method of claim 1 that does not teach or further define over the limitations of claim 1. Therefore, it is rejected on the same basis as claim 1.

17. Claims 11-18 are rejected on the same basis as claims 2-9 with the limitations addressed above.

18. As per claim 19, Yates teaches an apparatus (10, fig. 1A; queue system) for protocol conversion, a manager (30, fig. 1A; also functions as group driver) having distributed components, comprising: at least one I/O manager (16, fig. 1A; *plurality of I/O managers are shown*) having intelligence to support states of (i) emulation devices (12, fig. 1A) transceiving messages using a first protocol (protocol A from host A) and (ii) an interface transceiving messages using a second protocol (protocol B as output protocol to second host B); at least one emulation device providing low-level control reaction to an external device adhering to the first protocol (12, fig. 1A); and at least one group driver (30, fig. 1A) to provide an interface between the I/O manager and said at least one emulation device (pages 3, lines 26 - page 4, lines 10).

19. As per claim 20, Yates teaches one group driver buffers data to allow for direct memory access (DMA) transfer (page 12, lines 23-27).

20. Claims 21-23 and 25-28 are rejected on same basis as claims 1, 2, and 19 with the limitations addressed above.



Art Unit: 2152

21. Claim 24 is rejected on the same basis as claims 1 and 19 with the limitations addressed above.

22. Claim 55 is rejected on same basis as claim 1 with the limitations addressed above.

### ***Conclusion***

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

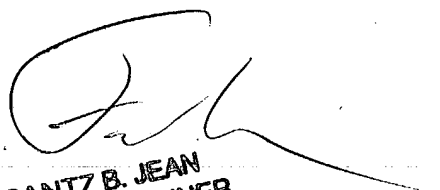
- Whitney, 6,141,701; Kishi, 6,640,247; Keele et al, 5,455,926; Bober, 6,718,372; Laggis et al, 5,109,515; Carter et al, 6,148,377 ; Yabumoto, 5,717,951 ; Blumenau et al, 6,665,714 ; Raz, 5,906,658 ; Maniwa, 5,933,584 ; Reiman et al, 5,706,286 ; York, 6,401,133

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack P Nguyen whose telephone number is (703) 605-4299. The examiner can normally be reached on M-F 8:30-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be reached on (703) 305-4792. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2152

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). jpn



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